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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,554	02/06/2001	Barbara Scott	BBC-077/A.	8200

7590 06/21/2005

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EXAMINER

SHIAO, REI TSANG

ART UNIT	PAPER NUMBER
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1626

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/777,554

Applicant(s)

SCOTT ET AL.

Examiner

Robert Shiao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE of Appl. 09777554 filed on 5/05, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 23-37, 59 and 60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 38-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This application claims benefit of the provisional application: 60/180,841 with a filing date 02/07, 2000.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 05, 2005, has been entered.
3. Applicant's arguments filed on May 05, 2005, are acknowledged. Claims 1-60 are pending in the application.

Responses to Arguments

4. Applicant's arguments regarding new matter of claim 1 filed on May 05, 2005, have been fully considered and they are persuasive. Therefore, objection of claim 1 having new matter is withdrawn herein.
5. Applicant's arguments regarding rejection of claims 1-22 and 38-58 under 35 U.S.C. 103(a) over Das et al. US 2002/0123484 A1 filed on May 05, 2005, have been fully considered but they are not persuasive. Applicants still claim instant compounds of formula (I), variable Q represents hydrogen; the variable Y represents S; the variable W represent H, Cl, NO₂, substituted alkyl; the variable X¹ represent hydrogen or alkyl; the variable R³ represents hydrogen, or alkyl; R¹ and R² independently represent hydrogen

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or optionally substituted alkylamino, alkyl, amino, NHX^3 , or NX^3X^3 , and X^3 represents hydrogen, alkyl, or aryl. It is noted that the alkyl moiety of substituent alkylamino, amino, NHX^3 , or NX^3X^3 (i.e., X^3 represents hydrogen, alkyl, or aryl) is linked to the instant phenyl moiety of benzithiazole. Therefore, instant claimed compounds of formula (I) still render obviousness of Das et al., rejection of claim 1-22, and 38-58 under 35 U.S.C. 103(a) over Das et al. US 2002/0123484 A1, is maintained, see columns 18-19. It is suggested that limitation of instant variable R^1 or R^2 of formula (I), wherein the alkyl moiety of substituent alkylamino, amino, NHX^3 , or NX^3X^3 is not directly linked to the phenyl moiety of benzothiazole of formula (I), would obviate the rejection.

Objection

6. Claims 1-22, and 38-58 are objected to as containing non-elected subject matter heteroaryl or heterocycle, i.e., pyridyl, triazole, furanyl, imidazole, morpholine, pyrrolidine, etc. It is suggested that applicants amend the claims to the scope of the elected subject matter set forth in the paragraph four of the Office action, dated June 22, 2004. Moreover, claims 23-37 and 59-60 are objected to as being non-elected inventions. Elimination of claims 23-37 and 59-60 would obviate the objection.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephone Inquiry

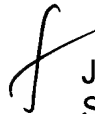
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TAOFIQ SOLOLA
PRIMARY EXAMINER



Joseph K. McKane
Supervisory Patent Examiner
Art Unit 1626



Robert Shiao, Ph.D.
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June 16, 2005